

Form JDG11 (10/09)

**United States Bankruptcy Court  
Western District of Michigan**  
One Division Ave., N.  
Room 200  
Grand Rapids, MI 49503

**IN RE:** Debtors (names used by the debtors in the last 8 years, including married, maiden, trade, and address):

**Kathryn M Schroeder**  
50201 Silver St.  
Vicksburg, MI 49097  
SSN: xxx-xx-5128  
**Robert L Schroeder**  
50201 Silver St.  
Vicksburg, MI 49097  
SSN: xxx-xx-4912

Debtors

**Case Number 12-09139-jtg**

**Chapter 7**

**Honorable John T. Gregg**

**NOTICE TO PARTIES IN INTEREST OF HEARING**

YOU ARE HEREBY NOTIFIED that a hearing will be held at the United States Bankruptcy Court, Federal Building, U.S. Courthouse, Room 114, 410 W. Michigan Avenue, Kalamazoo, MI 49007 on **February 19, 2015 at 10:00 AM** to consider and act upon the following matter:

**Trustee's Motion for Sale of Real Estate**

If you want the court to consider your views on this matter, attend the hearing on the date stated above.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)

You or your attorney may wish to file a written response to the motion explaining your position. Any response shall be mailed to the Clerk of the United States Bankruptcy Court, One Division Ave., N., Grand Rapids, Michigan 49503, and should be received by the Clerk at least 7 (seven) days before the above hearing date. A copy of your responses should also be mailed upon the opposing party and his/her attorney.

If you or your attorney do not take these steps, the court may decide to grant the relief sought in the motion and may enter an order granting relief requested.

DANIEL M. LAVILLE  
CLERK OF BANKRUPTCY COURT

**Dated:** January 26, 2015

/S/ \_\_\_\_\_  
Kim Davis  
Deputy Clerk

A copy of this notice returned to Steven L. Rayman, Esq. on January 26, 2015 for service upon the mailing matrix.

NOTICE IS HEREBY GIVEN THAT THE COURT MAY, in its discretion, orally continue or adjourn the above hearing on the record in open court. If this occurs, parties in interest will not be given further written notice of the continued or adjourned hearing. If an entity is not present at the originally scheduled hearing, information regarding the time, date and place of an orally continued or adjourned hearing may be accessed through the Bankruptcy Court's web site ([www.miwb.uscourts.gov](http://www.miwb.uscourts.gov)) provided the person has a PACER login and password, or by visiting the clerk's office of the United States Bankruptcy Court located at One Division Ave., N., 2nd Floor, Grand Rapids MI 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 5:00 p.m. Monday through Friday, CST at (800) 676-6856 or via its web site at <http://pacer.psc.uscourts.gov>

UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

IN THE MATTER OF:

KATHRYN M. SCHROEDER AND  
ROBERT L. SCHROEDER,

Case No. GK 12-09139  
Chapter 7 - Filed: 10/15/2012

Debtors.

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**MOTION FOR SALE OF REAL ESTATE PURSUANT TO 11 U.S.C. §363(f) & (h)**

NOW COMES Thomas C. Richardson, Trustee ("Trustee"), by and through his special counsel, Rayman & Knight, and for his Motion for Sale of Real Estate Pursuant to 11 U.S.C. §363(f) & (h) ("Motion"), says as follows:

1. That he is the duly appointed and acting Trustee with respect to the above-captioned Chapter 7 proceeding which was filed on October 15, 2012.

2. That included in the property in this estate are two parcels of vacant real estate located in the Township of Mendon, St. Joseph County, Michigan, ("Real Estate") described as follows:

Parcel 1: Commencing at the Northwest corner of Section 6, Township 5 South, Range 10 West, and running thence South 0000'00" East, along the West line of said Section, 802.70 feet; thence South 9000'00" East 195 feet to the point of beginning of this description; thence South 8946'10" East 360.81 feet; thence South 0000'00" East 335.65 feet; thence North 8946'10" West along the 1/2-1/2 line as previously staked in a survey recorded in Liber 360, Page 955, a distance of 360.81 feet; thence North 0000'00" West 335.65 feet to the point of beginning. Parcel ID #75-010-006-004-10

Parcel 2: The North ½ of the following described parcel: Commencing 1026.7 feet South of the Northwest corner of Section 6, Town 5 South, Range 10 West, thence South 8931' East 195.01 feet, thence South

220 feet, thence North 8931' West 195 feet more or less to the West section line of said Section 6, thence North along said Section line 220 feet to the place of beginning, subject to any and all conditions, restrictions, limitations and easements of record. Parcel ID #75-010-006-004-11

Parcel 2 (Tax ID# 7501000600411) is owned as tenants in common with Debtor's son, one Jeffrey Schroeder ("Jeffrey"). Jeffrey has consented to the sale. A copy of his consent will be provided.

3. That the Trustee has received an offer to purchase the Real Estate from one Tim Phares of Centreville, Michigan ("Offeror") for the sum of \$14,000.00. The Offeror is not an insider.

4. That the Trustee is not aware of any mortgage or lien on the Real Estate other than (i) *ad valorem* taxes which will be paid at closing; and (ii) the following tax liens which are liens against the interest of Jeffrey, not against the interest of the Debtors:

• IRS	Recorded 8/21/06	\$23,919.26
• IRS	Recorded 10/10/06	\$ 8,553.09
• State of Michigan	Recorded 9/22/09	\$ 1,560.60 <sup>1</sup>

5. That the Trustee has been in contact with the IRS and State of Michigan. Neither have indicated any objection to the sale. However, the Trustee shall obtain their affirmative consent before effectuating the sale as the Tax Liens will not be paid in full at closing. The Trustee proposes (and will not close absent affirmative consent) the following allocation:

- a. Parcel 2 (parcel owned half by Jeffrey) has an SEV of \$3,400.00. The Trustee assumes that Jeffrey has a one-half interest in Parcel 2;
- b. Parcel 1 has an SEV of \$9,700.00;

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<sup>1</sup> The liens on the Real Estate owned by Jeffrey are referred to as the "Tax Liens" and are only liens on Parcel 2. Parcel 1 is unencumbered except for *ad valorem* taxes.

- c. Based upon the SEV valuations of the two properties, Jeffrey's gross portion would be 13% of the total sale proceeds; an amount equal to \$1,820.00. The net proceeds owed to Jeffrey, based upon 13% of the net proceeds would be \$1,393.63. However, after negotiation with Jeffrey, the Trustee has agreed to an allocation of Jeffrey's portion of \$1,510.63<sup>2</sup>; and
- d. All funds payable to Jeffrey will be paid to the IRS, whose lien is first in time amongst the Tax Liens.

6. That the Trustee proposes that the Real Estate be offered for sale in open Bankruptcy Court on the following terms:

- a. A copy of the proposed Buy Sell Agreement is attached as Exhibit "A" and fully incorporated by this reference.
- b. Bidding will commence at \$14,500.00 with subsequent bids in increments of not less than \$200.00.
- c. The sale will be on a cash basis with the successful bidder being required to deposit \$500.00 with the Trustee (in cash or by cashier's check or other certified funds) at the conclusion of the bidding. The deposit of the successful bidder shall be retained by the Trustee and shall not be refundable in the event the successful bidder fails to close the purchase. No contingent bids shall be received. Closing shall take place no later than seven (7) days after approval by (i) this Honorable Court; and (ii) the holders of the Tax Liens.
- d. The Real Estate will be sold on an "as is, where is" basis, without representation or warranty, express or implied, of any kind, nature or description, including, without limitation, any warranty by description or marketability, merchantability, habitability, or usability, or of fitness for any purpose. The Trustee shall not be required to inspect or test or report on the condition of the Real Estate or the existence of any possible defects in the Real Estate.
- e. All 2014 and prior year real estate taxes which became due as of the date of sale shall be paid out of the sale proceeds as an expense of sale. Offeror will pay all 2015 taxes without pro-ration.

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<sup>2</sup> This allocation was agreed upon by the Trustee as Jeffrey believed that the total sale price ought be \$14,900.00. The allocation pays him an amount equal to what he would have received assuming such sale price.

- f. The sale shall be consummated by the delivery to the Offeror of a Trustee's Deed without warranty of title, and the Trustee shall have no obligation to furnish either an abstract of title or title insurance to the Offeror, and any such expense shall be borne by the Offeror. Possession shall be given to the Offeror at closing.
- g. The Real Estate shall be sold free and clear of all liens, encumbrances, and/or claims therein in accordance with 11 U.S.C 363(f), with said liens, encumbrances, and/or claims attaching to the sale proceeds in the same order of validity, rank, and priority as now exists in the Real Estate. Any and all liens, claims and encumbrances shall be discharged when a copy of a subsequent Order Confirming Sale entered by this Court is recorded along with the Trustee's Deed in the Register of Deeds Office.
- h. The expenses of custody, protection, and insurance of the Real Estate, as well as expenses of sale, including administrative and all legal expenses of these proceedings relating to the protection and sale of said Real Estate, shall be charged against the sale proceeds with priority over all claims.
- i. Arrangements for inspection of the Real Estate to be sold can be made by contacting Roxy Cantu, the Trustee's Realtor, Keller Williams Realty, 653 Romence Road, Portage, MI 49024, Telephone: (269) 760-8948.
- j. Any person objecting to the validity, propriety or legality, and/or having any objection of any kind to the sale as described herein, shall file a written objection to the sale on or before five (5) business days before the date set for the hearing on this Motion and simultaneously serve a copy thereof on the attorney for the Trustee at the addresses listed on this Motion, in accordance with Bankruptcy Rule 6004(b).
- k. The Trustee reserves the right to recommend rejection of this offer to the Court if it later proves insufficient to yield a reasonable net recovery to the estate, or if a higher bid is received at the hearing on confirmation of the sale.

7. That the offer which the Trustee has received is subject to a commission of ten percent (10%) to be paid to Roxy Cantu, Keller Williams Realty, conditioned upon the consummation of the sale.

8. That real estate taxes due are estimated at \$1,100.00. Real estate transfer taxes on \$14,000.00 would be \$120.40.

9. That the Trustee believes that the sale of the Real Estate pursuant to the terms herein is in the best interests of the estate and its creditors.

10. That the provisions of 11 U.S.C. §363(h) are satisfied in that (i) partition of the Real Estate is not practical - Parcel 1 would be landlocked without the sale of Parcel 2; (ii) the estate's interest, if the properties were divided, would be significantly less than if it was sold free of the interest of the co-owner; (iii) the benefit to the estate of the sale of the real property free of the interest of the co-owner outweighs any detriment, if any, to Jeffrey - the Real Estate is vacant land; (iv) the Real Estate is not used in the production, transmission or distribution for sale of electric energy or of natural or synthetic gas for heat, light or power; and (v) Jeffrey has consented.

**WHEREFORE**, your Trustee prays:

A. That this Court authorize the sale of said Real Estate upon the terms and conditions set forth herein for \$14,000.00, or to any other purchaser for any additional sums as may be bid in open Court.

B. That the Court determine that the buyer is a good-faith purchaser for purposes of 11 U.S.C. §363(m).

C. That the Trustee be authorized to execute a Trustee's Deed or such other conveyance document in conformance with the within terms.

D. That the Trustee be authorized, without further Order of this Court, to pay the realtor's commissions, any outstanding taxes on the subject Real Estate and any lienholders and

other costs and expenses needed in order for closing to take place, including Real Estate transfer tax.

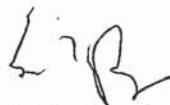
E. That the Stay of Order under Bankruptcy Rule 6004(h) be waived so that closing may take place immediately since buyer is anxious to close.

F. For all other relief that this Court finds just and equitable.

**RAYMAN & KNIGHT**  
Special Counsel for Trustee

Dated: January 23, 2015

By:



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Steven L. Rayman (P30882)

**BUSINESS ADDRESS:**

141 East Michigan Avenue, Suite 301

Kalamazoo, MI 49007

Telephone: (269) 345-5156